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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER

NOV 08 2006

JOHN MENDES
EXECUTIVE OFFICER & CLERK
BY T. Lewis Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF PLACER

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11 THE PEOPLE OF THE
12 STATE OF CALIFORNIA,

13 Plaintiff,

14 -vs-

15 D.R. HORTON, a Delaware Corporation
16 DOES 1 THROUGH X, INCLUSIVE,

17 Defendants.

NO **S CV 20205**

COMPLAINT FOR CIVIL
PENALTIES AND INJUNCTIVE
RELIEF [FISH & GAME CODE
§ 5650; B&P CODE § 17200,
ET SEQ.]

18 The People of the State of California, by and through
19 Bradford R. Fenocchio, District Attorney of Placer County, allege
20 that:

21 **JURISDICTION AND VENUE**

22 1. Bradford R. Fenocchio, as District Attorney of the County
23 of Placer, acting to protect the public from unfair and unlawful
24 business practices, as well as the environment, brings this action
25 in the public interest in the name of THE PEOPLE OF THE STATE OF
26 CALIFORNIA pursuant to Sections 5650.1(d) of the California Fish

1 and Game Code and Sections 17200, et seq. of the California
2 Business and Professions Code.

3 **DEFENDANTS**

4 2. Defendant, D.R. HORTON, a Delaware Corporation, qualified
5 to do business in the State of California, is now and at all times
6 mentioned herein, was engaged in constructing residential lots for
7 the Sierra Valley Oaks subdivision located near the intersection
8 of Sierra College Boulevard and Southside Ranch Road, Rocklin,
9 County of Placer, California.

10 3. When, in this complaint, reference is made to any act
11 or omission of defendants, or officer, agents, or employees
12 thereof, such allegations shall be deemed to mean that the
13 officer, directors, employees, or representatives of said
14 defendants did or authorized such act or actively engaged in the
15 management, direction, representation, or control of the affairs
16 of said business, and did so while acting within the course and
17 scope of their employment.

18 4. The true names or capacities, whether individual,
19 corporate, associate, or otherwise, of defendants DOES ONE through
20 TEN are unknown to plaintiff who therefore sues such defendants by
21 such fictitious names. Plaintiff will amend this complaint to
22 show their true names and capacities when ascertained. Plaintiff
23 is informed and believes and thereupon alleges that each of the
24 defendants designated herein as a Doe is legally responsible in
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1 some manner for the events and happenings alleged in this
2 complaint.

3 **FIRST CAUSE OF ACTION**

4 **VIOLATION OF FISH AND GAME**
5 **CODE SECTIONS 5650**
6 **(WATER POLLUTION)**

7 5. Plaintiff realleges and incorporates by reference as
8 though set forth in full herein Paragraphs 1 through 4 inclusive.

9 6. On or about and between November, 2003, and March,
10 2004, Defendants engaged in the following unlawful activity:

11 Depositing, permitting to pass into, or placing where
12 it can pass into the waters of this state, any
13 substance deleterious to fish, plant life, or bird
14 life, in violation of California Fish & Game Code
15 section 5650(a)(6), to wit, siltation.

16 **SECOND CAUSE OF ACTION**

17 **VIOLATION OF BUSINESS & PROFESSIONS**
18 **CODE SECTIONS 17200**
19 **(UNFAIR BUSINESS PRACTICE)**

20 7. Plaintiff realleges and incorporates by reference as
21 though set forth in full herein Paragraphs 1 through 6 inclusive.

22 8. On or about and between November 2003 and March 2004,
23 Defendants have engaged in unlawful and unfair practices in the
24 conduct of their business, including but not limited to:

25 Permitting the passage into the waters of this
26 state of any substance or material deleterious to
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1 fish, plant life, or bird life, in violation of
2 Fish & Game Code § 5650.

3 **PRAYER**

4 WHEREFORE, Plaintiff prays that:

5 1. As provided by Fish & Game Code § 5650.1(e), (f) and (g),
6 as well as Business & Professions Code § 17203, Defendants and
7 their officers, agents, employees, and representatives, and all
8 persons acting in concert or participating with them with actual
9 or constructive notice of this complaint, be permanently enjoined
10 and restrained from any business activity in Placer County in
11 violation of California Fish & Game Code § 5650, et seq.
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13 2. With respect to the First Cause of Action, provided by
14 Fish and Game Code section 5650.1(a), a civil penalty against
15 defendants, to wit: not more than Twenty Five Thousand Dollars
16 (\$25,000.00) per day for each violation, in an amount according to
17 proof at trial.

18 3. With respect to the First Cause of Action, provided by
19 Business & Professions Code § 17206, a civil penalty be assessed
20 against the Defendants, based on unfair or unlawful competition,
21 to wit: Two Thousand Five Hundred Dollars (\$2,500.00) per day for
22 each violation, in an amount according to proof at trial.
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24 4. That the Court require defendant to provide restitution
25 to all parties which have expended resources in investigating
26 defendants' violations, including but not limited to the costs
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1 accrued by the California Department of Fish & Game, as provided
2 for by Business & Professions Code § 17203.
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4 Dated: November 8, 2006. BRADFORD R. FENOCCHIO, DISTRICT ATTORNEY
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6 BY



CARL D. MAYHEW,
DEPUTY DISTRICT ATTORNEY

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